



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 07510-98

31 May 2000

CAPT [REDACTED] USN RET
[REDACTED]

Dear Capt [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Your request to file in your record the supplemental fitness report for 1 August 1997 to 17 February 1998 was not considered, as you have not exhausted your administrative remedies. The attached advisory opinion from the Navy Personnel Command (NPC) dated 1 April 1999 indicates they did not accept the report for file and returned it to you because you had not signed it.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the NPC advisory opinion.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board noted that you offered no information as to the charge for which you received nonjudicial punishment (NJP), or the reason the NJP was set aside. Accordingly, they were unable to find you were improperly marked in block 35 ("Military Bearing/Character") of the contested original fitness report; nor could they find the block 41 narrative should state "Integrity and military demeanor beyond all expected norms," as shown in the supplemental report, rather than "Goes beyond all expected norms," as in the original. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

**NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**

1610
NPC-311
1 April 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: NPC/BCNR Coordinator (NPC-00XCB)

Subj: CAPT [REDACTED] (RET) [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 1 August 1997 to 17 February 1998 and replacing it with a supplemental report for the same period.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. The member signed the report acknowledging the contents of the report and his right to submit a statement. The member did not desire to make a statement. He has two years from the ending date of the fitness report to submit a statement. The supplemental report was received by NPC-311; however, the report was rejected because the member did not sign the report. It is in the process of being returned to the member.

b. The member requests the removal of his fitness report because the report included an NJP event and later set aside by the reporting senior. The supplemental report changes block-35 from 3.0 to 4.0 and one sentence in block-41. The promotion recommendation is the same on both reports. There is nothing in the original fitness report that indicates NJP was ever administered.

c. The reporting senior submitted the supplemental report with the required cover letter and in accordance with reference (a), Annex P. The reporting senior's cover letter states the reason for the revised report is administrative correction.

d. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remained unchanged. When the supplemental report is received with the correct signature we will file it next to the original report along with the cover letter.



Head, Performance
Evaluation Branch